

23866. Misbranding of canned pears, and adulteration and misbranding of canned prunes. U. S. v. Washington Cannery Cooperative. Plea of guilty to certain counts. Plea of nolo contendere to remaining counts. Fine, \$80. (F. & D. no. 32126. Sample nos. 29174-A, 37024-A, 37132-A, 37223-A, 38495-A.)

This case was based on interstate shipments of three lots of canned pears, one lot of which was substandard, one of which was short weight, and one of which was both substandard and short weight. The case also covered a shipment of unpitted canned prunes which were represented to be pitted prunes.

On October 29, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Washington Cannery Cooperative, a corporation, Vancouver, Wash., alleging shipment by said company, in violation of the Food and Drugs Act as amended, on or about May 17, 1933, June 9, 1933, and March 17, 1934, from Vancouver, Wash., to Portland, Oreg., and from thence, to Los Angeles, Calif., of quantities of canned pears which were misbranded and a quantity of canned prunes which were adulterated and misbranded; and on or about April 28, 1933, from the State of Washington into the State of Idaho, of a quantity of canned pears which were misbranded. The articles were labeled, variously: "Britewest Brand Net Weight 1 Lb. 14 Ozs. [or "6 Lbs. 4 Ozs.]" Bartlett Pears * * * Washington Cannery Co-Operative Vancouver, Washington"; "United Superior Brand Bartlett Pears Net Contents 1 Lb. 14 Oz. * * * Packed Expressly for Economy Wholesale Grocers Los Angeles California"; "Bestwest Pitted Select Fancy Fresh Prunes * * * Washington Cannery Co-Operative Vancouver, Washington."

The information charged misbranding with respect to the Superior brand and one lot of the Britewest brand canned pears in that the statements, "Net Weight 1 Lb. 14 Ozs." or "Net Contents 1 Lb. 14 Oz." borne on the labels, were false and misleading; for the reason that the article was labeled so as to deceive and mislead the purchaser; and for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the cans contained less than 1 pound 14 ounces, and the statement of the net weight was therefore incorrect. Misbranding was alleged with respect to both lots of the Britewest brand canned pears for the reason that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard, since in one of the lots 90 percent of the solid units were not unbroken halves, more than 10 percent consisting of broken halves, and more than 10 percent of the units were excessively trimmed, and in the other lot the liquid portion read below 13 degrees Brix, 90 percent of the solid units were not unbroken halves, more than 10 percent consisting of broken halves, more than 10 percent of the units were excessively trimmed, and the solid units were not of normal size and were nonuniform in size.

Adulteration of the canned prunes was alleged for the reason that unpitted prunes had been substituted for pitted prunes, which the article purported to be.

Misbranding of the canned prunes was alleged for the reason that the statement "Pitted * * * Prunes", borne on the can label, was false and misleading and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it was not pitted prunes, but was unpitted prunes. Misbranding of the canned prunes was alleged for the further reason that they were sold under the distinctive name of another article, pitted prunes.

On November 12, 1934, a plea of nolo contendere was entered to the counts charging the 2 lots of Britewest pears with being substandard, a plea of guilty was entered to the remaining 6 counts, and the court imposed a fine of \$10 on each count, making a total of \$80.

M. L. WILSON, *Acting Secretary of Agriculture.*

23867. Adulteration of canned salmon. U. S. v. Standard Packing Co. Plea of guilty. Fine, \$100 and costs. (F. & D. no. 32135. Sample nos. 26759-A, 27056-A.)

This case was based on an interstate shipment of canned salmon, samples of which were found to be tainted or stale.

On October 6, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Standard Packing Co., a corporation, Seattle, Wash., alleging shipment by said company in violation of the Food and